

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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JONATHAN HAMER ex rel. UNITED
STATES OF AMERICA, et al.,

Plaintiffs,

v.

BOND PHARMACY INC., a Delaware
corporation training as Advanced Infusion
Solutions,

Defendant.

Civil Action No. 3:23-CV-1472-N

SEALED

**CONSENT MOTION FOR PARTIAL DISMISSAL OF PLAINTIFF-RELATOR'S
FIRST AMENDED *QUI TAM* COMPLAINT AS TO ALL COUNTS
OTHER THAN COUNT THREE**

Plaintiff-Relator Jonathan Hamer hereby moves to dismiss without prejudice all counts of his first amended *qui tam* complaint, other than Count Three, which will remain pending. The counts in question (comprising Counts One, Two, and Four through Thirty-One) were filed under the False Claims Act on behalf of the United States and on behalf of various state government entities under their analogous statutes. The United States has consented to this proposed dismissal under the False Claims Act as required by 31 U.S.C. § 3730(b)(1), and the various States named in the complaint have also indicated their consent for the proposal dismissal as well, as shown in the consent statement that accompanies this motion.¹

Hamer is not dismissing Count Three, which is brought under the FCA's anti-retaliation provision and other relevant employment laws, and seeks relief for defendant's unlawful

¹ Because Hamer is only seeking to dismissing certain counts within the complaint, the dismissal of these counts is requested by motion rather than by notice under Rule 41(a). See *Bailey v. Shell W. E&P, Inc.*, 609 F.3d 710, 720 (5th Cir. 2010) (explaining that a Rule 41(a) dismissal cannot be effected as to particular claims as opposed to the entire "action"). The defendant in any event has not been served, answered, moved for summary judgment, or otherwise appeared in the case yet.

termination of Hamer and other on-the-job discrimination or violations of his rights.

Respectfully submitted,

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CONSENT STATEMENT¹

The United States, through its counsel below, states that it has investigated relator's allegations in this case under the False Claims Act and, after investigation, believes that relator's proposed dismissal without prejudice of Counts One and Two of the first amended complaint represents a fair and just outcome, and therefore hereby CONSENTS to such dismissal, provided it is without prejudice to the United States.

The State of Texas, through its counsel below, likewise states on its own behalf and on behalf of California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Montana, Nevada, New Jersey, New Mexico, New York, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, Washington, and Wisconsin (who, through their representatives, have authorized counsel to convey their statement in this filing), that after investigation, they CONSENT to the

¹ Given that relator is voluntarily dismissing the substantive claims to which the United States and the various States are the real-parties-in-interest, and that relator will only be proceeding on a retaliation claim as to which the United States and the various States are not a real-party-in-interest, there no longer are any live claims as to which it would be necessary for the United States and the various States to either intervene on or decline intervention.

proposed dismissal of the other counts of the first amended complaint applicable to them, provided it is without prejudice to these States.

Respectfully submitted,

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**ATTORNEYS FOR THE STATE OF
TEXAS (and on behalf of the other States
named in the complaint for the limited
purpose noted herein)**

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ORDER

This case was brought under the False Claims Act and analogous state laws by plaintiff-relator Jonathan Hamer on behalf of the United States and various State government entities identified in the First Amended *Qui Tam* Complaint, and with respect to Count Three on behalf of Hamer himself. The United States and the various States having now declined to intervene with respect to the counts applicable to them, and upon consideration of the Consent Motion for Partial Dismissal of Plaintiff-Relator's First Amended *Qui Tam* Complaint As to All Counts Other than Count Three (the "Motion") filed by Hamer and the accompanying Consent Statement noting the consent of the United States and the various States to the dismissal, without prejudice, of the Counts other than Count Three, it is hereby ORDERED that:

1. The Motion is hereby GRANTED and the claims in the first amended complaint other than Count Three are dismissed without prejudice as to Hamer and without prejudice as to the United States and the various States. This dismissal does not affect Count Three, which remains pending. Hamer is hereby authorized and directed to obtain a summons from the Clerk of Court and to serve defendant in compliance with Rule 4 (or to secure an appropriate waiver of

service) so that this case may proceed as to Count Three.

2. The Clerk of Court is directed to UNSEAL the Complaint, the First Amended Complaint, and Motion and accompanying Consent Statement, and this Order, and publicly docket them. All other filings that pre-date the date of this Order shall remain under seal.

3. This action is also UNSEALED going forward, such that all filings made after the date of this Order shall be publicly docketed unless filed under seal pursuant to a later order from the Court or as part of a motion to seal submitted in compliance with the local rules for sealed filings.

SIGNED _____, 2024.

David C. Godbey
Chief United States District Judge